

U.S. Patent Application No. 10/673,093
Response to Restriction Requirement and
Election of Species Requirement dated May 9, 2008
Response to Office Action of April 21, 2008

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REMARKS/ARGUMENTS

At page 2 of the Office Action, the Examiner is requesting that the applicant restrict this application to one of the two inventions as follows:

- I. Claims 1-34, 56-60, and 135, drawn to a method of analysis by determining the relationship between a performance property and a homogeneous interaction parameter.
- II. Claims 35-40, drawn to a method of analysis by determining the relationship between a performance property further comprising a chemically related formulation and a homogeneous interaction parameter.

To be responsive, the applicants elect, with traverse, Group I, claims 1-34, 56-60, and 135, drawn to a method of analysis by determining the relationship between a performance property and a homogeneous interaction parameter. Further, the applicants elect as the species, interfacial potential by wicking rates, with traverse. Claims 1-17, 25-29, 31-34, 56-60, and 135 read on the elected invention and species.

For the following reasons, the restriction requirement is respectfully traversed.

With regard to all of the claims, it is respectfully submitted that all claims should be examined at this time since there appears to be no serious burden on the part of the Examiner to search the entire scope of the claims. It is believed that the subject matter has the same concept from the standpoint that the searches will overlap. Under M.P.E.P. § 803, if there is no serious burden in the examination of all of the claims even if the claims are directed to separate inventions, the Examiner must examine all claims at this time. § 803 applies to the current situation and therefore the restriction requirement should be withdrawn and all claims should be examined at this time.

Moreover, it is noted that all claims were previously examined with regard to their merits as set forth in the Office Action dated July 12, 2007. This confirms that the subject matter was

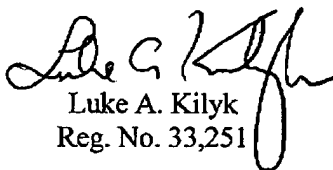
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searchable (and was searched) in its entirety with respect to the previously-elected invention and the similarities between the process steps would certainly support this point. Since the subject matter of the previously-elected invention has been examined by the Examiner and the amendments to the claims, as set forth in the Amendment filed October 11, 2007, would not alter the searchable subject matter or the burden placed upon the Examiner, this restriction requirement and election of species requirement is improper and should be withdrawn.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 03-0060. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,


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